

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MEGAN CAPEL, et al,                     )  
                    Plaintiffs,                     )  
   )  
vs.   ) Case 17-cv-00325-JED-FHM  
   )  
OTTAWA COUNTY BOARD OF                     )  
COUNTY COMMISSIONER, et al,)                     )  
                    Defendants.                     )

DEPOSITION OF  
JENNIFER DILLINGER

DATE: APRIL 13, 2018

REPORTER: MARISA SPALDING, CSR, RPR

Spalding Reporting Service, Inc.  
1611 South Utica Avenue, Box 153  
Tulsa, Oklahoma 74104  
(918) 794-6399  
(918) 284-2017

1 Q You were?

2 A I had just gotten my paramedic license.

3 Q Okay. And was Kent your supervisor?

4 A Yes.

5 Q Is that what you said? Why don't you just  
6 tell me before we get into the documents what you  
7 recall from that day in October when you were called  
8 to see Mr. Ellis at the jail.

9 A We were paged out for a seizure. We left the  
10 station like normal, went to the jail, went into  
11 through the sally port like we typically always do  
12 through the jail. He was held in a pod directly to  
13 the right of the door.

14 All of the inmates were cleared out except for him  
15 and he was laying on a mattress in the floor of the  
16 pod. There were several jailers. I don't recall  
17 exactly how many. And the first responders were there  
18 as well.

19 Q Okay.

20 A He was awake and talking at this point. If  
21 I'm not mistaken, he was sitting up at this point  
22 talking. We went ahead and I -- since I was on  
23 paramedic orientation, I made patient contact. And as  
24 I always do, I walk up to my patient and introduce  
25 myself to the patient and ask him what his name is.

1 And, typically, I will ask somebody, do you mind if I  
2 check your pulse?

3 And I checked his pulse as he's talking to me  
4 cause that gives me a very good estimation of his  
5 ABC's, which is his airway, breathing, and circulation  
6 at that point.

7 Q How did you check his pulse?

8 A By reaching out and holding his wrist. I use  
9 the radial pulse check.

10 Q Okay.

11 A He was alert and oriented times four, which  
12 means he knew where he was at, what was going on, his  
13 date of birth, that type of thing. He was able to --  
14 he was coherent. He said that he had had a seizure,  
15 and he did not appear to be postictal at that time.  
16 We continued through and asked him several questions.  
17 We never could get a direct answer from him.

18 He kind of avoided questions. He -- we took his  
19 blood pressure and he told us that he felt like he was  
20 dehydrated so we had taken it sitting down, so we  
21 allowed him to stand up and gave him a minute to catch  
22 his bearings and took his blood pressure again, which  
23 is called an orthostatic test and he was negative. He  
24 did not show a drop in blood pressure from sitting to  
25 standing position.

1           And he had a few other complaints but never really  
2           continued with the same complaint throughout. He was  
3           getting agitated and the jailers had told him that he  
4           could not call his grandfather, which is what his main  
5           concern was throughout the call was calling his  
6           grandfather. And they gave him the option of whether  
7           to stay at the jail and stay in a holding jail or to  
8           go with us and he chose to stay in a holding cell.

9           Q     Who's they?

10          A     The jailers.

11          Q     Okay.

12          A     Yeah.

13          Q     What's a pre-hospital care report?

14          A     That would be an EMS report that we do for  
15          our patient contact because we are considered  
16          pre-hospital care.

17          Q     Okay. And when you show up to the scene, how  
18          do you fill out your -- is there a chart that you  
19          start?

20          A     We have a computer that we start a run ticket  
21          on it.

22          Q     Okay. And are you documenting information  
23          contemporaneously with the visit or do you do that at  
24          a later time?

25          A     We do that at a later time.

1 and charting information when you see a patient?

2 A Just so you can get an accurate -- accurate  
3 description of the patient's condition and what  
4 happened on the call.

5 Q And are you trained that it's important to  
6 make sure that all of the information is accurate?

7 A Yes.

8 Q And why is it important to make sure that you  
9 have accurate information in your reports?

10 A Because you don't know what happened two  
11 years ago. And if it's not in your narrative, then it  
12 did not happen.

13 Q Okay.

14 A It's what we're taught in school.

15 Q And that if you do document something, that  
16 it needs to be the truth and accurate?

17 A Yes.

18 Q In your narrative that you wrote after you  
19 were asked to do it the next day, you indicate that --  
20 I am down here towards the bottom where it says: One  
21 of the guards then stated that he would be put into a  
22 holding cell in view of the guard desk and checked on  
23 every 15 minutes and if anything changed with the  
24 patient, that EMS would be called back immediately,  
25 correct?

1 A Yes.

2 Q Do you recall being told that?

3 A Yes, I do.

4 Q If Mr. Ellis continued to suffer from  
5 seizures, would you have expected a phone call based  
6 on that conversation?

7 A Yes.

8 Q Did you ever receive a phone call?

9 A No.

10 Q Did anyone at Integris, to your knowledge,  
11 ever receive a phone call after you left the jail  
12 regarding Mr. Ellis?

13 A No.

14 Q Have you had an opportunity to review the  
15 jail surveillance video?

16 A Yes.

17 MR. PAUL: Just when she was there.

18 THE WITNESS: Yeah, just only when I was  
19 present at the jail.

20 Q (By Mr. Smolen) What do you -- okay. During  
21 -- what do you mean? Explain that to me.

22 A The time of -- I was present at the jail with  
23 Mr. Ellis is the only time I reviewed.

24 Q What did you review?

25 A Just the events that occurred like as he had

1           A       Okay.

2                   MR. SMOLEN:   And it's about 20 minutes  
3   long so whatever -- however you guys want to best set  
4   it up to do it, we can.   So what I'm going to do is  
5   I'm just going to let you guys review it and then I'm  
6   going to go through and ask you about some certain  
7   things, okay?

8                   (Video playing)

9                   (Off the record)

10                  DIRECT EXAMINATION (Cont.)

11   BY MR. SMOLEN:

12           Q       Looking back at your Exhibit 5, the document,  
13   your narrative that you wrote the next day when you  
14   found out that Mr. Ellis became very ill, are you  
15   looking at that?

16           A       Yes.

17           Q       Okay.   You state that patient was -- I'm at  
18   the bottom here.   Patient was told by the guard that  
19   he couldn't call his grandpa.   Patient got visibly  
20   agitated at this time taking off the blood pressure  
21   cuff and throwing it and getting up off the stretcher.  
22   I didn't see that in the video.   Do you recall seeing  
23   that in this video?

24           A       Not in the video.

25           Q       Okay.   In fact, it looks like the blood

1 pressure cuff is taken off of him?

2 A If you look closely, you can see when he sits  
3 down on the stretcher, he does have it on his -- it  
4 would be his left arm.

5 Q Uh-huh.

6 A And then when he stands up, he no longer has  
7 it on.

8 Q Is it your testimony that he threw the blood  
9 pressure cuff sometime before that?

10 A Yes, he was sitting on the side of the  
11 stretcher when he took it off and threw it on the  
12 ground.

13 (Video playing)

14 MR. SMITH: Dan, while we're waiting, do  
15 we just want to make a statement on the record about  
16 the video being a zoomed in version?

17 MR. SMOLEN: Sure. It's a zoomed in  
18 version from an AVI export feature off of the camera  
19 itself.

20 Q (By Mr. Smolen) Why don't you scroll and  
21 show me where you think that you guys were taking his  
22 blood pressure for the second time.

23 A It would be right there. As you look  
24 closely, my partner and I both are looking at the  
25 monitor watching the blood pressure.



1 lean back up with the cuff in his hand, correct?

2 A Yes.

3 Q Okay. Let's look at paragraph -- well, it's  
4 all one paragraph. But about halfway down here you  
5 said: Patient was asked if he had been eating and  
6 drinking like normal and he said that he had been.  
7 Patient's lung sounds was oscillated at this time and  
8 found to be clear and equal bilaterally. Tell me how  
9 you did that.

10 A With a stethoscope.

11 Q Okay. And you were the only one that had a  
12 stethoscope, right?

13 A Correct.

14 Q And where were you wearing your stethoscope  
15 on you that day?

16 A Around my neck is generally where I wear my  
17 stethoscope.

18 Q Okay. And we see you with a stethoscope  
19 around your neck when you walk into the facility,  
20 correct?

21 A Yes.

22 Q So your report states that you checked his  
23 breathing and his lungs bilaterally after he had had  
24 his blood pressure taken for a second time, correct?

25 A Uh-huh.

1 Q And had been seated on the stretcher?

2 A Uh-huh.

3 Q Yes?

4 MR. SMITH: Is that a yes?

5 THE WITNESS: Yes.

6 Q (By Mr. Smolen) Here's Mr. Ellis standing  
7 when you indicated he was having his blood pressure  
8 taken for a second time, right?

9 A Yes.

10 Q And I'll let you just watch this and then you  
11 can hit pause whenever you see yourself checking his  
12 breathing with your stethoscope.

13 A There was never even a clear time I could  
14 really see the patient to tell you when.

15 Q Right. But I'm looking -- I've watched this  
16 video, you can imagine, countless times and I don't  
17 ever see stethoscope come away from your neck.

18 A Okay. Well, like I said, I can't see a clear  
19 time because you can't really see the patient when  
20 he's sitting on -- when he's on the stretcher.

21 Q Right. I'm not looking at the patient. I'm  
22 looking at the stethoscope around your neck, which I  
23 don't ever see come off?

24 MR. SMITH: Object to the form.

25 THE WITNESS: Well, I can't see the

1 video clear enough to tell you If it ever came off or  
2 not.

3 Q (By Mr. Smolen) Okay. But it's your --  
4 still your testimony here under oath that you're  
5 absolutely certain you took the stethoscope off and  
6 listened to his breathing?

7 A Yes, because he complained of rib pain from  
8 a fall. So, therefore, that could have caused a  
9 traumatic injury, so I would have listened to breath  
10 sounds on both sides to confirm that he had them.

11 Q I don't know want to know what you would have  
12 done or what you would have -- your normal protocol.  
13 But as we sit here today, is it your testimony under  
14 oath --

15 A Yes.

16 Q -- that you took your stethoscope --

17 A Yes.

18 Q Let me finish. That you took your  
19 stethoscope off and that you listened to his  
20 breathing?

21 A Yes.

22 Q And it was completely normal?

23 A Yes.

24 Q I'll hand you what we're going to mark as  
25 Exhibit 8 to your deposition.

1 his report. Sounds were checked by paramedic.

2 THE WITNESS: Yeah, it does.

3 MR. PAUL: It does.

4 MR. SMOLEN: Well, let's see. What  
5 pages are you at there?

6 MR. GIBBS: 1674.

7 THE WITNESS: The fifth one down.

8 Q (By Mr. Smolen) It says: Jailer was told  
9 that patient was stable and nothing acute appeared to  
10 be happening, correct?

11 A In Kent's report, yes.

12 Q Kent's report says: Patient stated that he  
13 was not having any trouble breathing, correct?  
14 Patient did not appear to be in any respiratory  
15 distress?

16 MR. PAUL: Show her where you're looking  
17 at.

18 THE WITNESS: Yeah, I can't find it, I'm  
19 sorry.

20 Q (By Mr. Smolen) Just go ahead and read the  
21 narrative to yourself and I'll --

22 MR. PAUL: The whole thing?

23 MR. SMOLEN: Yeah.

24 MR. PAUL: Okay. Read it from the top.

25 THE WITNESS: Do you want me to read it

1           Q       (By Mr. Smolen) Okay. Because, yeah, you  
2 specifically state: Patient -- this is your report.  
3 Patient sat down on the side of the stretcher and  
4 stated he was dehydrated. Patient was asked if he had  
5 been eating and drinking like normal and he stated  
6 that he had been. Patient's lung sounds and was  
7 auscultated at the time, correct? I mean, it  
8 specifically says at this time in your report?

9           A       Yes, it says at this time.

10          Q       Okay. But that report is inconsistent with  
11 what we see in the video, correct?

12                   MR. GIBBS: Object to the form.

13                   MR. SMITH: Same.

14                   THE WITNESS: Correct.

15          Q       (By Mr. Smolen) Okay. You also put in your  
16 report at the end: Patient was told by the guard that  
17 he couldn't call his grandpa. Patient got visibly  
18 agitated at this time taking off the blood pressure  
19 cuff and throwing it and getting up off the stretcher  
20 and stated to take him to the holding cell now.  
21 Patient did not sign the refusal paperwork because of  
22 being placed in a holding cell; is that true?

23          A       Yes, sir.

24          Q       That the patient didn't sign the paperwork  
25 because he was in a holding cell? That part of that

1 is true?

2 A Yes, he was -- we were told he was being  
3 placed in a holding cell.

4 Q I want to know -- you state: Patient did not  
5 sign the refusal paperwork because of being placed in  
6 a holding cell?

7 A Yes, because we had to go back to the vehicle  
8 to get our computer for him to sign and we were told  
9 he was being placed in a holding cell.

10 Q You would agree with me Mr. Ellis never  
11 signed any paperwork refusing transportation to the  
12 hospital, correct?

13 A Yes.

14 Q Who told you that he couldn't sign that?

15 A He was going to a holding cell is why he was  
16 not able to sign it.

17 Q Okay. How did -- why did you not think he  
18 was able to sign it?

19 A I can't tell you that.

20 Q Okay. Can you tell me why he didn't sign it  
21 when you guys were packing up your stuff and leaving?

22 A The computer was in the truck.

23 Q What computer?

24 A Our report computer that we write all of our  
25 reports on.

1     been peeing in a cup and someone was emptying --  
2     emptying it for him. At this time, a guard pulled me  
3     aside and stated the patient had been walking around  
4     all day and that right before his seizure-like  
5     episode, that he had walked up to the guard station  
6     and told them he would sue them for not letting him  
7     use the phone and for the fall the previous week  
8     because of plumbing?

9           A     Yes.

10          Q     Okay. What else do you recall being told  
11     when you were pulled to the side by the guard?

12          A     That was it.

13          Q     Okay. And it's your testimony under oath  
14     that nobody there at the jail indicated that they  
15     thought Mr. Ellis was faking?

16          A     No.

17                   MR. SMITH: Let me clarify that given  
18     the way the question was posed.

19                   THE WITNESS: No one at the jail told me  
20     that he was faking and no one at the jail ever told me  
21     not to take him either.

22          Q     (By Mr. Smolen) Do you think that the  
23     individual that wrote this statement was just making  
24     that up?

25                   MR. GIBBS: Object to the form.

1           Q     All right. Tell me exactly what he said to  
2     you, ma'am, and what you said to him.

3           A     It's got profane language.

4           Q     That's fine.

5           A     He was talked to by the guards about whether  
6     he wanted to be placed in a holding cell or whether he  
7     wanted to go to the hospital, and he had asked to call  
8     his grandfather and that he just wanted to go to the  
9     hospital so he could call his grandfather. And when  
10    he was told he couldn't at the hospital, the patient  
11    got visibly angry and said, Take me to my fucking  
12    holding cell. And took off the blood pressure cuff at  
13    that time, which we have already discussed, and that  
14    was the end of the conversation.

15          Q     So he did say he wanted to go to the  
16    hospital?

17          A     No, he said he wanted to be taken to his,  
18    curse word, holding cell.

19          Q     It's my understanding that you just testified  
20    that he said that he wanted to be taken to the  
21    hospital and then call his grandfather?

22          A     No, he wanted to call his grandfather when he  
23    was at the hospital.

24          Q     Right. So he wanted to go to the hospital?

25          A     But then when he was told he would not be



1     that Mr. Williams put in this narrative was accurate  
2     to your memory, correct?

3                   MR. SMOLEN:   I'm going to object to the  
4     form.

5                   THE WITNESS:   Yes and no because my  
6     narrative -- timelines don't -- like my narrative goes  
7     in a different timeline than his does, but I would say  
8     his is more accurate because it was done that day.

9                   MR. SMOLEN:   Object to the form.  
10    Speculation.

11         Q     (By Mr. Smith)   Other than timelines as to  
12    treatment provided, is there anything else that you  
13    read that strikes you as inaccurate --

14         A     No.

15         Q     -- or did not happen?

16         A     No.

17         Q     So let's go down to -- it looks like the  
18    third last -- third to last line in that narrative  
19    portion.   It starts with:   Jailer was told that  
20    patient was stable and nothing acute appeared to be  
21    happening; do you see that portion?

22         A     Yes.

23         Q     Is that portion of his report accurate?

24         A     Yes, the patient was stable.

25         Q     Do you remember who told a jailer that the

1 patient was stable?

2 A I do not recall.

3 Q But you don't have reason to disagree with  
4 Mr. Williams that a jailer was told that the patient  
5 was stable and nothing acute appeared to be happening?

6 MR. SMOLEN: Object to the form.

7 THE WITNESS: No, I do not.

8 Q (By Mr. Smith) According to your assessment,  
9 the patient was stable, correct?

10 A Correct.

11 Q According to your assessment, the patient did  
12 not show signs of any acute illness, correct?

13 A Correct.

14 Q So plaintiff's counsel asked you some  
15 questions about the report template and how things  
16 were phrased in the report. But aside from the  
17 template, based on your assessment, did you have any  
18 opinion that Mr. Ellis was suffering from any serious  
19 medical condition at the time of your visit?

20 MR. SMOLEN: Object to the form.

21 THE WITNESS: Per my assessment, no.

22 Q (By Mr. Smith) His vitals were normal,  
23 correct?

24 A Yes.

25 MR. SMOLEN: Object to the form.

1           Q       (By Mr. Smith) Was there anything that  
2       signaled to you that Mr. Ellis was in a dire medical  
3       condition at that point in time?

4                   MR. SMOLEN: Object to the form.

5                   THE WITNESS: No.

6           Q       (By Mr. Smith) So plaintiff's counsel asked  
7       you if you ever arrived at a diagnosis. Do you  
8       remember that question?

9           A       Yes.

10          Q       I believe your testimony was, no; is that  
11       right?

12          A       Yes.

13          Q       Explain what you meant by that.

14          A       As a paramedic, we do field impressions. We  
15       do not do diagnoses because we don't have labs and  
16       x-rays and CT scans and all of that stuff. We cannot  
17       make a definitive diagnosis. We can make an  
18       impression.

19          Q       And so for the record, you meant that you did  
20       not arrive at a definitive condition that you felt  
21       Mr. Ellis to have at that point?

22          A       Yes.

23          Q       But you did have an impression of his  
24       condition, correct?

25                   MR. SMOLEN: Object to the form.